

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Lori Baron,

Plaintiff,

vs.

Town of Huachuca City,

Defendant.

No. 12-CV-754-TUC-RCC

ORDER

Before the Court is Magistrate Judge Leslie Bowman's Report and Recommendation (Doc. 16), recommending that the Court deny Defendant's Motion to Dismiss (Doc. 3) as moot.

The duties of the district court in connection with a R & R are set forth in Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may "accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. FED.R.CIV.P. 72(b)(3); 28 U.S.C. § 636(b)(1).

Where the parties object to a R & R, "[a] judge of the [district] court shall make a *de novo* determination of those portions of the [R & R] to which objection is made." 28 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). When no objection is filed, the district court need not review the R & R *de novo*. *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d

1 1114, 1121-22 (9th Cir.2003) (en banc). Therefore to the extent that no objection has been
2 made, arguments to the contrary have been waived. *McCall v. Andrus*, 628 F.2d 1185, 1187
3 (9th Cir.1980) (failure to object to Magistrate's report waives right to do so on appeal); *see*
4 *also*, Advisory Committee Notes to Fed.R.Civ.P. 72 (citing *Campbell v. United States Dist.*
5 *Court*, 501 F.2d 196, 206 (9th Cir.1974) (when no timely objection is filed, the court need
6 only satisfy itself that there is no clear error on the face of the record in order to accept the
7 recommendation).

8 The Court will not disturb a Magistrate Judge's Order unless his factual findings are
9 clearly erroneous or his legal conclusions are contrary to law. 28 U.S.C. § 636(b)(1)(A).
10 “[T]he magistrate judge's decision ... is entitled to great deference by the district court.”
11 *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir.2001). A failure to raise an
12 objection waives all objections to the magistrate judge’s findings of fact. *Turner v. Duncan*,
13 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a Magistrate Judge’s conclusion “is
14 a factor to be weighed in considering the propriety of finding waiver of an issue on appeal.”
15 *Id.* (internal citations omitted).

16 Here, no objections have been filed to the R & R. Defendant’s Motion to Dismiss
17 addresses Plaintiff’s original complaint. Since that time, Plaintiff has filed two amended
18 complaints, which supersede the original. *Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th
19 Cir. 2011) (“[I]t is well-established that an amended complaint supersedes the original, the
20 latter being treated thereafter as non-existent.”) (punctuation modified); *Shupe v. Cricket*
21 *Communications Inc.*, 2013 WL 68876, 3 (D.Ariz. 2013). This Court considers the R&R to
22 be thorough and well-reasoned. After a thorough and de novo review of the record, the Court
23 will adopt the R&R of Magistrate Judge Bowman (Doc. 16).

24 Accordingly,

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28 **IT IS ORDERED** that Magistrate Judge Bowman’s Report and Recommendation

(Doc. 16) is hereby **ACCEPTED** and **ADOPTED** as the findings of fact and conclusions of law by this Court.

IT IS FURTHER ORDERED Defendant's Motion to Dismiss (Doc. 3) is **denied as moot**.

DATED this 15th day of March, 2013.

A handwritten signature in black ink, appearing to read 'R. Collins', is written over a horizontal line.

Raner C. Collins
United States District Judge